

July 19, 2022

The Honorable Martin Glenn
United States Bankruptcy Court, Southern District of New York
One Bowling Green
New York, NY 10004-1408

Re: Celsius Network LLC, et al. ("Celsius"), Case Number 22-10964

Dear Chief Judge Glenn,

I am very appreciative of your remarks on the First Day Hearing welcoming input from creditors both large and small. I am a small creditor.

I would like to outline a few points of concern:

- 1) There is \$600m in "CEL Assets" listed on the balance sheet. CEL is a digital token of which the value is heavily associated with the Celsius business, which also controls the supply. It is unclear how these tokens will be redeemed on the market for a substantial value, if any at all.
- 2) I wholly disagree with the characterization by Celsius that "how we got here today" is chiefly a result of the macro environment and bad public sentiment. It has been revealed in the media¹ that Celsius was reckless, negligent, and misled its customers.

When I joined Celsius, I relied on the Celsius White Paper², of which I enclose a copy, as well as statements by Mr. Mashinsky, such as the below, to assess the risk to my deposits.



Alex Mashinsky 
@Mashinsky

...

We are happy to report that @CelsiusNetwork had no business dealings with @KuCoinUpdates or @BabelFinance and that Celsius does not trade or take long or short positions with customer coins.

<https://twitter.com/Mashinsky/status/1311020748451065862>, Sep 29, 2020

The White Paper describes a system whereby my coins would be lent out to short sellers, and I would receive interest for doing so. This is a very different revenue and risk model to the one it was revealed Celsius was actually operating, which involved complex leveraged long positions on decentralized finance platforms. If their strategy changed since I signed up, Celsius did not disclose or communicate this to me.

¹ Celsius Bankruptcy Shows Reckless Behavior [...], D. LeClair and S. Rule (July 15, 2022), <https://bit.ly/3zgNi7Q>

² Celsius White Paper, <https://celsius.network/static/celsius-whitepaper.pdf>

Regarding the “macro environment”, the crypto-asset market is famously volatile and has already had eight drawdowns of ~50% or greater. Any reasonable operator in this space would account for the possibility of another one. Furthermore, the market declined ~30% in the seven days *after* Celsius announced its pause on June 12, i.e., they themselves were the catalyst. In the preceding 30 days, it had declined just ~8% and had been on a steady downward trend since early November 2021. Celsius cited “extreme market conditions” as the reason for halting withdrawals, but I would contend conditions were normal and expected.

- 3) Celsius states in their Risk Disclosure³ that “Celsius conducts in-depth due diligence reviews of any such third party or platform, including security, financial and credibility tests”. I allege they repeatedly failed to do this and suffered significant losses as a result.
- 4) While it is true the Terms of Use (“ToU”) state Celsius is entitled to use, sell, pledge, and rehypothecate coins (Doc 45 Pg 9), Mr. Mashinsky was publicly assuring customers that Celsius does not trade our funds, they are lent mainly to institutions, and they were safe; we could withdraw at any time. I allege that Celsius made fraudulent misrepresentations and were not acting in good faith when I agreed to these ToU and I question their validity. I am also generally appalled at the notion this company’s actions could potentially be excused through a single sentence buried in the ToU.
- 5) I would like to highlight that state regulators in Alabama, Kentucky, New Jersey, and Texas had previously issued orders⁴⁵⁶⁷ against Celsius, alleging that the Celsius Earn program (for all rewards products, not just CEL tokens) constituted a security and would require the appropriate disclosures, licenses and regulatory adherence. I understand Celsius ignored these.
- 6) I am skeptical about the benefit of Celsius’ Bitcoin mining operation to creditors, it seems to be a distraction and a deviation from Celsius’ core business. Celsius stated it currently nets 14.2 Bitcoins per day. At today’s price that is \$122m in annual revenue, however, the costs involved in mining are typically very high. Given the large size of the deficit in the balance sheet, it is unclear whether this will generate any significant return to creditors in any reasonable timeframe. I share the concerns raised by the United States Trustee on this matter.

Overall I am concerned that the Chapter 11 process may offer some protection to Celsius’ leadership for actions for which I believe they ought to be held accountable, and/or preserve insider interests at the expense of retail creditors like myself.

³ Celsius Network Risk Disclosure (April 2022), <https://celsius.network/static/risk-disclosure.pdf>

⁴ Alabama Securities Commission Administrative Order SC-2021-0012 (September 16, 2021), <https://bit.ly/3IOgWEO>

⁵ Commonwealth of Kentucky Public Protection Cabinet Administrative Action No. 2021-AH-00024 (September 23, 2021) <https://bit.ly/3zkNm6O>

⁶ State of New Jersey Bureau of Securities *Cease and Desist* (September 17, 2021), <https://bit.ly/3zkWfNK>

⁷ Texas State Securities Board SOAH DOCKET NO. 312-22-0160 (September 17, 2021), <https://bit.ly/3PqFciH>

I do not believe this case is merely the result of a series of unfortunate events for a well-intentioned company, but rather a result of Mr. Mashinsky's web of lies, the company's gross financial mismanagement, and a reckless corporate culture, all finally coming undone.

Lastly, I would like to mention I received the First Day Hearing Zoom invite with all participants' email addresses visible, including your good self. May I suggest the Court uses the Bcc feature going forward.

Respectfully submitted,

H. Mitton